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REMARKS

This is a full and timely response to the non-final Official Action mailed April 25, 2006, which imposed a Restriction Requirement in the present application. Accordingly, Applicant makes the following election and requests that examination of the elected claims on their merits be promptly conducted in light of the following remarks.

In the outstanding Office Action, the Office alleges that the present application contains claims drawn to four independent and patentably distinct inventions. The claims are grouped as follows:

- Claim Group 1: Claims 1-18 and 27-50;
- Claim Group 2: Claims 51-60;
- Claim Group 3: Claims 61-70; and
- Claim Group 4: Claims 18-26, 71 and 72.

In response, Applicant elects Claim Group 1, claims 1-18 and 27-50 for immediate examination. All other original claims are labeled as "withdrawn" herein.

This election is with traverse because Applicant believes the Office has mischaracterized the claims in the recent Office Action. Specifically, the Office states that Claim Group 4 is "drawn to a device with means for delivering quantities of at least two materials to an electrochemical cell." (Action of 4/25/06, p. 2). Claim 19, however, recites:

A cartridge for use with an electrochemical cell comprising:  
a reservoir containing a volume of a chemical composition containing at least one compound capable of oxidative reaction;  
an electronically controllable drop ejection device in communication with the reservoir, the drop ejection device capable of dispensing measured quantities of the associated chemical composition from the reservoir into a suitable electrochemical cell.

It is unclear how the Office can state that claim 19, for example, recites a device for delivering quantities of *at least two materials*. Claim 19 recites just a single chemical

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composition in a single reservoir. While Claim 19 does not exclude a device for delivering at least two materials, claim 19 does not require a device for delivering at least two materials and is consequently mischaracterized by the Office Action. Thus, claim 19 and its dependent claims are not properly included in Claim Group 4 as that claim group has been defined by the Office. For at least this reason, the Restriction Requirement as to claim 19 and its dependent claims should be reconsidered.

The recent Office Action also held that claim 51 of Claim Group 2 contains multiple patentably-distinct species. Because Group 2 was not elected and all the claims of Group 2 are withdrawn, this species election is considered moot. However, if Applicant must elect a species, Applicant elects the species characterized by "the quantity of fluid ejected being determined by ... consumption demands of the electrochemical cell."

This election is with traverse. MPEP Section 806.04(f) states the following:

*Claims to be restricted to different species must be mutually exclusive.* The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species. (emphasis added).

In contrast, the various recitations of *single* claim 51 are not mutually exclusive. Rather, as indicated by the claim's express recitation that "at least one of" the listed parameters may be used, all or any combination of the listed parameters may be included. Thus, there is no mutual-exclusivity as required by the MPEP for a proper Species Election. For at least these reasons, this Species Election should be reconsidered and withdrawn.

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The recent Office Action also held that claims 19 and 71 of Claim Group 4 are directed to patentably distinct species. However, because Group 4 was not elected and all the claims of Group 4 are withdrawn, this species election is considered moot. However, if Applicant must elect a species, Applicant elects the species characterized by claim 19.

Applicant does not disclaim the subject matter of any withdrawn claim and reserves the right to file any number of continuation or divisional applications to the withdrawn claims or to any other subject matter described in the present application.

An examination of claims 1-18 and 27-50 on their merits is now respectfully requested. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: May 25, 2006

  
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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number **571-273-8300** on **April 27, 2006**. Number of Pages: **22**

  
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